

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN**

HEATHER NELSON,

Plaintiff,

v.

Civil Case No.: 3:11-cv-307

**SANTANDER CONSUMER USA, INC.,
PATRICK K. WILLIS, CO., INC. d/b/a
AMERICAN RECOVERY SERVICE, and
ASSETSBIZ CORP. d/b/a ABC RECOVERY,**

Defendants.

**PLAINTIFF’S MOTION IN LIMINE NO. 11 – MOTION IN LIMINE TO
PRECLUDE DEFENDANTS FROM USING IMPROPER AND PREJUDICIAL
TACTICS AGAINST PLAINTIFF’S ATTORNEYS’ MOTIVES**

Plaintiff moves the Court to preclude defendants from using improper and prejudicial tactics against plaintiff’s attorneys’ motives.

ARGUMENT

FDCPA defendants often argue that the fee recovery for plaintiffs’ attorneys is the “engine running this suit.” That claim, however, is contrary to the intent of Congress that the FDCPA be enforced by private attorneys rather than overburdened public servants. *See Graziano v. Harrison*, 950 F.2d 107, 113-14 (3d Cir. 1991) (FDCPA “mandates an award of attorney’s fees as a means of fulfilling Congress’ intent that the Act be enforced by debtors acting as private attorneys general”).

Moreover, the argument is spurious where, as here, it is completely within defendants’ power to keep plaintiff’s fees to a minimum. Defendants have mounted a stalwart defense with full awareness that they are exposing their clients to a higher award of fees by doing so. *McGowan v. King, Inc.*, 661 F.2d 48, 51 (5th Cir. 1981); *See also Lipsett v. Blanco*, 975 F.2d

934, 941 (1st Cir. 1992). Defendants therefore should not be heard to complain when this comes to pass.

Plaintiff moves this Court to preclude defendants and their attorneys from using improper and prejudicial tactics against plaintiff's attorneys' motives.

Respectfully submitted this 13th day of May, 2013.

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